STATE CONTROLLER POLICY

Processing Commitment Vouchers That Violate State Statute

Definitions

Statutory Violation – Occurs when a liability is incurred by the State or a payment is made without an approved commitment voucher such as a purchase order or a State contract when one is required as described in Fiscal Rule 2-2.

Ratification – State Controller approval of a statutory violation.

Policy

When a **statutory violation** occurs, the State Controller may ratify the expenditure provided that:

- The prices or rates are fair and reasonable
- The amount of the expenditure is within the unencumbered balance
- The State agency or institution of higher education provides a written explanation in accordance with this policy
- The parties did not act in bad faith or in a fraudulent manner

Agencies and institutions of higher education shall not release vendor payments prior to ratification by the State Controller.

Any statutory violation not ratified by the State Controller shall be the personal obligation of the person who ordered the goods or services and incurred the obligation.

All state agencies and institutions are required to maintain an adequate system of internal controls to identify an occurrence, prevent or minimize violations, and implement this policy.

The agency chief fiscal officer shall notify the State Controller and request ratification of the commitment after he/she has reviewed the information related to either a contract or purchase order violation and is satisfied that the corrective action planned or taken is sufficient to prevent or minimize future occurrences. This notification can be in the form of a memorandum or e-mail to the State Controller, and must include:

1. **Description of the commitment**. Include:
    a. description of the goods or services,
    b. dollar amount,
    c. date the commitment arose,
    d. whether disbursements have been made, and
    e. copies of any relevant correspondence, documents, invoices, purchase orders, and contracts that define the terms of the commitment.

2. **Explanation of why commitment arose before it was authorized**. Include:
    a. the organizational unit and name and title of person or persons responsible,
    b. description of internal controls and why controls did not prevent the situation from occurring, and
    c. whether either party acted in bad faith or in a fraudulent manner.

3. **Evaluation of pricing**. Include an assessment of whether the prices or rates are fair and reasonable, and the basis for that conclusion. As appropriate, include state procurement procedures that were used and whether all other required approvals were obtained.

4. **Expenditure and unencumbered balance**. Confirm that the expenditure is within the unencumbered balance, that the agency or institution of higher education has the funds to pay for the commitment.

5. **Description of preventative steps**. Include the steps that are planned to prevent a reoccurrence of this situation in the future. If similar violations have occurred in the past, explain why prior preventative actions have not precluded the problem from reoccurring.

Leslie M. Shenefelt
State Controller